IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

WP(C).No. 25152 of 2004(T)

PETITIONER:

SUDHEER K.B., DRIVER,
PLANTATION CORPORATION OF KERALA LTD.,
KIZHAKKAMURIKKINTHARA HOUSE, ADIRAPPILLY ESTATE,
BLOCK NO.9, KALADY PLANTATION P.O.,
ANGAMALY (VIA)

BY ADV. SRI.FEBIN J.VELUKARAN
SRI.JOE JOSEPH KOCHIKUNNEL

RESPONDENTS:
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1. THE PLANTATION CORPORATION OF KERALA LTD
KOTTAYAM 686 004, REP.BY ITS MANAGING DIRECTOR.

2. THE MANAGER, ATHIRAPALLY ESTATE
KALADY PLANTATIONS, KALADY.

BY ADV. SRI.JOSEPH MARKOSE
SRI.S.SIRI JAGAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.25152/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1(a) :- COPY OF THE HEAVY LICENCE.

EXT.P1(b):- COPY OF THE PREVIOUS EXPERIENCE CERTIFICATE DT. 20.11.99 POSSESSED BY THE PETITIONER AS A HEAVY VEHICLE DRIVER.

EXT.P2:- COPY OF THE CREDIT NOTE ISSUED BY THE 1ST RESPONDENT DT. 6.5.03 SHOWING THE WAGES PAID TO THE PETITIONER.

EXT.P3(a):- COPY OF THE CORRESPONDENCE DT. 3.3.03 MADE BY THE MANAGER (F&A) TO THE MANAGING DIRECTOR OF THE 1ST RESPONDENT CORPORATION SHOWING THAT THE PETITIONER HEREIN IS WORKING AS THE DRIVER OF THE CHAIRMAN'S CAR FROM DECEMBER 2002.

EXT.P3(b):- COPY OF THE LOG BOOK OF THE VEHICLE IN WHICH THE PETITIONER IS PRESENTLY WORKING AS A DRIVER 1.8.04.

EXT.P4:- OPY OF THE REPRESENTATION DT. 10.2.04 PREFERRED BY THE PETITIONER TO THE 1ST AND 2ND RESPONDENTS.

EXT.P5:- COPY OF THE JUDGMENT DT. 4.6.04 IN WP(C) NO.16657/04.

EXT.P6:- COPY OF THE NOTICE DT. 5.7.04 ISSUED BY THE 1ST RESPONDENT.

EXT.P7:- COPY OF THE ORDER DT. 20.7.04 PASSED BY THE 1ST RESPONDENT

EXT.P8:- COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT DT. 4.9.04 TRANSFERRING THE PETITIONER HEREIN FROM THE POST OF THE DRIVER TO TAPPER/FIELD WORKER CATEGORY.

/TRUE COPY/

P.A. TO JUDGE

tss

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.25152 OF 2004

Dated this the 9th day of August, 2007

JUDGMENT

The request of the petitioner for consideration for appointment as Driver or Vehicle Helper stands turned down. The case of the petitioner is that though he was recruited as Rubber Tapper, the fact remains that he has been driving the car of the Chairman of the Corporation for quite some time. Though there is plea of the respondents that the petitioner had been paid for such work done by him, the plea of absence of vacancy cannot be totally accepted since the petitioner was carrying on the activity of driving a car which post has not been abolished. Therefore, a more pragmatic approach requires to be had for being considered the petitioner for appointment as prayed for by him. Under such circumstances, the impugned order is quashed and the respondents are directed to re-consider the issue, taking a lenient view in the matter. Let that be done within an outer limit of two months from the date of receipt of a copy of this judgment.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.